

CIVIL SERVICE COMMISSION MINUTES

May 21, 2003

A meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Barry I. Newman
Sigrid Pate
Marc Sandstrom
A.Y. Casillas

Absent was:

Gordon Austin

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
MAY 21, 2003

2:00 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
<u>2,3,4,5,7</u>	<u>3</u>		

COMMENTS Motion by Pate to approve all items not held for discussion; seconded by Casillas. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Sandstrom: Wendell Prude, S.E.I.U. Local 2028, on behalf of **John Neal**, former Certified Nurse Practitioner, appealing an Order of Termination and Charges from the Sheriff's Department.

OPEN SESSION AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and the President of the Commission approves it.

MINUTES

1. Approval of the Minutes of the regular meeting of April 2, 2003.

Approved.

2. Approval of the Minutes of the regular meeting of May 7, 2003.

Motion by Sandstrom to approve Minutes of May 7, 2003 as amended; seconded by Pate. Carried.

3. Approval of the Minutes of the special meeting of May 9, 2003.

This item was pulled for discussion by Commissioners Sandstrom and Newman. After discussion, Larry Cook, Executive Officer, asked the Commission if it wanted Staff (via counsel) to review the May 9th Minutes before the Commission voted to approve them. Commissioner Newman requested that approval of the May 9th Minutes be trailed to the next Commission meeting. There was unanimous consent by the Commission.

DISCIPLINES

Findings

4. Commissioner Sandstrom: Wendell Prude, S.E.I.U. Local 2028, on behalf of **John Neal**, former Certified Nurse Practitioner, appealing an Order of Termination and Charges from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - Insubordination (misuse and execution of certain departmental forms to document medication prescribed); Cause II - Failure of Good Behavior; Cause III - Incompetency. Employee has been a Detention's Nurse Practitioner in the Department since 1990 and has worked for the County for approximately 16 years. He has obtained a special status and certification among registered nurses from the California Board of Registered Nursing. The Department charged that the manner in which he utilized the forms was insubordinate, in violation of Department policy, and in violation of California law. At the Commission hearing, the Department failed to prove that he violated any precisely articulated directive or procedure. Moreover, Employee established that his conduct was consistent with established Department practice. The Department also failed to prove Employee violated California law.

Additionally, the Department's charges originated from its erroneous belief that Employee documented the prescription medication without first verifying the same by contacting the inmate's pharmacy or physician. Finally, any error on the part of Employee was minor, came at the end of a 15-hour double shift, and occurred in the unusual circumstance of the Department's inmate processing system being temporarily non-functional. Any such error was sufficiently addressed by verbal counseling to Employee. It is therefore recommended that the Order of Termination and Charges be reversed; that Employee be reimbursed for back pay, benefits, and interest from the date of termination through April 30, 2003 and from May 15, 2003 through May 21, 2003, minus any amounts received for outside employment during the time periods for which Employee is awarded back pay; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Sandstrom to approve Findings and Recommendations;
seconded by Casillas. Carried.**

DISCRIMINATION

Findings

5. Commissioner Sandstrom: **Jane Via**, Deputy District Attorney IV, alleging political affiliation discrimination by the former District Attorney.

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on February 19, 2003, the Commission appointed Marc Sandstrom to investigate the complaint submitted by Complainant. The complaint was concurrently referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that there was no evidence to support Employee's allegations of discrimination based on political affiliation by the former District Attorney, and that probable cause that a violation of discrimination laws occurred was not established in this matter. It is therefore recommended that this complaint be denied; that the Commission

approve and file this report with a findings of no probable cause that Complainant has been discriminated against on the basis of political affiliation; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Sandstrom to approve Findings and Recommendations;
seconded by Casillas. Carried.**

SELECTION PROCESS

Complaints

6. **Deborah Duncan**, Library Technician II, appealing the selection used by the County Library for the classification of Library Technician III.

RECOMMENDATION: Deny Request.

Staff recommendation approved.

OTHER MATTERS

Extension of Temporary Appointments

7. Health and Human Services Agency

A. 3 Residential Care Worker Trainees (Kelsey Mulder, Mona Moreno, Judy Teague)

B. 2 Residential Care Workers II (Shanee Small, Jacquelyne Matthews)

RECOMMENDATION: Ratify.

Commissioner Newman requested HHSA to explain the justification for extending trainees for "recurring unpredictable need which makes regular employees impractical". Lynnette Mercado from the Agency explained that on-call trainees are utilized on an as-needed basis, and a list is kept of the trainees and is utilized when regular on-call RCWT's are not available for his/her shift.

Commissioner Newman requested a current count of on-call staff, as well as a count of the numbers from 1 year past. Lynette Mercado agreed to submit the numbers to the Commission as soon as available.

**Motion by Casillas to ratify Item No. 7, seconded by Pate.
Carried.**

8. Public Input.

Commissioner Sandstrom discussed the May 16, 2003 article in the San Diego Union Tribune regarding the Commission's non-utilization of a deputy's name in its report. Further, the article contends that the Decision was not published. He explained that the Deputy was known by number, only, and that indeed the Decision was made public. Larry Cook offered that he had spoken with the UT and corrected the information reported.

Commissioner Newman discussed briefly the article of May 15, 2003 regarding the Juvenile Hall probation officer terminations.

THE NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE JUNE 18, 2003.